

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Ravi L. Sahita, et al.

Art Unit : 2155

Serial No. : 09/823,185

Examiner : Liang-Che Wang

Filed : March 29, 2001

Conf. No. : 9173

Title : NETWORK NODE CONFIGURATION

**Mail Stop Appeal Brief - Patents**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

APPEAL BRIEF ON BEHALF OF RAVI L. SAHITA AND DAVID M. DURHAM

Enclosed is a petition for extension of time with authorization to charge our deposit account. The appeal fee in the amount of \$500 is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply all charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No. 10559-457001. No other fees are believed to be due in connection with the filing of this appeal brief. However, to the extent fees are due, or if a refund is forthcoming, please adjust our deposit account.

**(1) Real Party in Interest**

The real party in interest in the above application is Intel Corporation.

**(2) Related Appeals and Interferences**

The Appellant is not aware of any appeals or interferences related to the above-identified patent application.

**(3) Status of Claims**

Claims 1-18 and 35-47 are pending. Claims 19-34 are canceled.

This is an appeal from the panel decision from a pre-appeal review<sup>1</sup> based on the rejections of claims 1-18 and 35-47 provided by the Examiner in a Final Office Action dated September 26, 2006. Claims 1-18 and 35-47 have been twice rejected and are presented for appeal.

**(4) Status of Amendments**

All amendments have been entered. Appellant previously filed a Notice of Appeal on December 22, 2006.

**(5) Summary of Claimed Subject Matter**

Claim 1

One aspect of Appellant's invention is set out in claim 1 as a managed node. "Fig. 2 shows a managed node." (Pg. 2, Para. 0006). "The managed nodes 14a-c can be routers, bridges, hosts, printers, and similar devices." (Pg. 2, Para. 0008).

Inventive features of claim 1 include a first database having metadata that is received from a remote source and that is descriptive of data stored in a second database. "The metadata stored in the auxiliary MIB 22 includes a specification of data from the local MIB 16 that is to be

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<sup>1</sup> In the decision from the pre-appeal review, the panel stated that the applicant should proceed to the Board of Patent Appeals and Interferences because there was at least one actual issue for appeal.

supplied to the management station in response to a COPS-PR "REQ" or "RPT" message and a specification of data from the local MIB 16 that is expected from the management station upon receiving a COPS-PR "DEC" message. The auxiliary MIB 22 thus functions as a dictionary available for reference by the shim layer 20." (Pg. 4, Para. 00014).

Inventive features of claim 1 also include a first process in communication with said second database. "An SNMP agent 18 in communication with the local MIB 16 modifies or retrieves objects in the local MIB 16 in response to received instructions." (Pg. 3, Para. 0010).

Inventive features of claim 1 also include a second process in communication with said first process through a first protocol, said second process receiving communication transmitted across a network using a second protocol and having access to said metadata in said first database for translation between said first and second protocols. "A COPS-PR shim layer 20 executing on the managed node 14a provides this translation function. The shim layer 20 is configured to emulate a COPS PEP by receiving COPS-PR messages from the management station 12 and providing a corresponding sequence of calls to the API (application program interface) of the SNMP agent 18. The shim layer 20 is also configured to receive data extracted from the local MIB 16 by the SNMP agent 18 and to repackage that data into a corresponding COPS-PR messages for sending to the management station 12." (Pgs. 3-4, Para. 0012).

### Claim 3

One aspect of Appellant's invention is set out in claim 1 as a managed node. "Fig. 2 shows a managed node." (Pg. 2, Para. 0006). "The managed nodes 14a-c can be routers, bridges, hosts, printers, and similar devices." (Pg. 2, Para. 0008).

Inventive features of claim 3 include a first database having metadata descriptive of data stored in a second database. "The metadata stored in the auxiliary MIB 22 includes a specification of data from the local MIB 16 that is to be supplied to the management station in response to a COPS-PR "REQ" or "RPT" message and a specification of data from the local MIB 16 that is expected from the management station upon receiving a COPS-PR "DEC" message. The auxiliary MIB 22 thus functions as a dictionary available for reference by the shim layer 20." (Pg. 4, Para. 00014).

Inventive features of claim 3 also include a first process in communication with said second database. "An SNMP agent 18 in communication with the local MIB 16 modifies or retrieves objects in the local MIB 16 in response to received instructions." (Pg. 3, Para. 0010).

Inventive features of claim 3 also include a second process in communication with said first process through a first protocol, said second process receiving communication transmitted across a network using a second protocol and having access to said metadata in said first database for translation between said first and second protocols,

Inventive features of claim 3 also include a network shim layer providing an interface between said first process and said network. "A COPS-PR shim layer 20 executing on the managed node 14a provides this translation function. The shim layer 20 is configured to emulate a COPS PEP by receiving COPS-PR messages from the management station 12 and providing a corresponding sequence of calls to the API (application program interface) of the SNMP agent 18. The shim layer 20 is also configured to receive data extracted from the local MIB 16 by the SNMP agent 18 and to repackage that data into a corresponding COPS-PR messages for sending to the management station 12." (Pgs. 3-4, Para. 0012).

#### Claim 9

One aspect of Appellant's invention is set out in claim 1 as a managed network. "Fig. 1 shows a managed network." (Pg. 2, Para. 0005). "Fig. 1 shows a managed network 10 in which a management station 12 communicates with several managed nodes 14a-d using the common open policy protocol (COPS), and in particular, using an extension of that protocol, COPS-PR, that is specifically adapted for policy provisioning." (Pg. 2, Para. 0008).

Inventive features of claim 9 include a management station. "Fig. 1 shows a managed network 10 in which a management station 12 communicates with several managed nodes 14a-d using the common open policy protocol (COPS), and in particular, using an extension of that protocol, COPS-PR, that is specifically adapted for policy provisioning." (Pg. 2, Para. 0008).

Inventive features of claim 9 also include a managed node in communication with said management station using a second protocol. "Fig. 1 shows a managed network 10 in which a management station 12 communicates with several managed nodes 14a-d using the common open policy protocol (COPS), and in particular, using an extension of that protocol, COPS-PR, that is specifically adapted for policy provisioning." (Pg. 2, Para. 0008).

Inventive features of claim 9 also include a first database having metadata that is received from a remote source and that is descriptive of data stored in a second database. "The metadata stored in the auxiliary MIB 22 includes a specification of data from the local MIB 16 that is to be supplied to the management station in response to a COPS-PR "REQ" or "RPT" message and a specification of data from the local MIB 16 that is expected from the management station upon receiving a COPS-PR "DEC" message. The auxiliary MIB 22 thus functions as a dictionary available for reference by the shim layer 20." (Pg. 4, Para. 00014).

Inventive features of claim 9 also include a first process in communication with a second process through a first protocol, said second process being in communication with said second database, said first process receiving communication from said management station through a second protocol and having access to said metadata in said first database for translation between said first protocol and said second protocol. "A COPS-PR shim layer 20 executing on the managed node 14a provides this translation function. The shim layer 20 is configured to emulate a COPS PEP by receiving COPS-PR messages from the management station 12 and providing a corresponding sequence of calls to the API (application program interface) of the SNMP agent 18. The shim layer 20 is also configured to receive data extracted from the local MIB 16 by the SNMP agent 18 and to repackage that data into a corresponding COPS-PR messages for sending to the management station 12." (Pgs. 3-4, Para. 0012).

#### Claim 13

One aspect of Appellant's invention is set out in claim 13 as a managed network. "Fig. 1 shows a managed network." (Pg. 2, Para. 0005). "Fig. 1 shows a managed network 10 in which a management station 12 communicates with several managed nodes 14a-d using the common open policy protocol (COPS), and in particular, using an extension of that protocol, COPS-PR, that is specifically adapted for policy provisioning." (Pg. 2, Para. 0008).

Inventive features of claim 13 include a management station. "Fig. 1 shows a managed network 10 in which a management station 12 communicates with several managed nodes 14a-d using the common open policy protocol (COPS), and in particular, using an extension of that protocol, COPS-PR, that is specifically adapted for policy provisioning." (Pg. 2, Para. 0008).

Inventive features of claim 13 also include a managed node in communication with said management station using a second protocol. "Fig. 1 shows a managed network 10 in which a

management station 12 communicates with several managed nodes 14a-d using the common open policy protocol (COPS), and in particular, using an extension of that protocol, COPS-PR, that is specifically adapted for policy provisioning." (Pg. 2, Para. 0008).

Inventive features of claim 13 also include a first database having metadata that is descriptive of data stored in a second database. "The metadata stored in the auxiliary MIB 22 includes a specification of data from the local MIB 16 that is to be supplied to the management station in response to a COPS-PR "REQ" or "RPT" message and a specification of data from the local MIB 16 that is expected from the management station upon receiving a COPS-PR "DEC" message. The auxiliary MIB 22 thus functions as a dictionary available for reference by the shim layer 20." (Pg. 4, Para. 00014).

Inventive features of claim 13 also include a first process in communication with a second process through a first protocol, said second process being in communication with said second database, said first process receiving communication from said management station through a second protocol and having access to said metadata in said first database for translation between said first protocol and said second protocol, wherein said first process comprises a network shim layer providing an interface between said first process and a network. "A COPS-PR shim layer 20 executing on the managed node 14a provides this translation function. The shim layer 20 is configured to emulate a COPS PEP by receiving COPS-PR messages from the management station 12 and providing a corresponding sequence of calls to the API (application program interface) of the SNMP agent 18. The shim layer 20 is also configured to receive data extracted from the local MIB 16 by the SNMP agent 18 and to repackage that data into a corresponding COPS-PR messages for sending to the management station 12." (Pgs. 3-4, Para. 0012).

#### Claim 35

One aspect of Appellant's invention is set out in claim 35 as a managed node. "Fig. 2 shows a managed node." (Pg. 2, Para. 0006). "The managed nodes 14a-c can be routers, bridges, hosts, printers, and similar devices." (Pg. 2, Para. 0008).

Inventive features of claim 35 include a first database having metadata that is received from a remote source and that is descriptive of data stored in a second database. "The metadata stored in the auxiliary MIB 22 includes a specification of data from the local MIB 16 that is to be

supplied to the management station in response to a COPS-PR "REQ" or "RPT" message and a specification of data from the local MIB 16 that is expected from the management station upon receiving a COPS-PR "DEC" message. The auxiliary MIB 22 thus functions as a dictionary available for reference by the shim layer 20." (Pg. 4, Para. 00014).

Inventive features of claim 35 also include a first process in communication with said second database. "An SNMP agent 18 in communication with the local MIB 16 modifies or retrieves objects in the local MIB 16 in response to received instructions." (Pg. 3, Para. 0010).

Inventive features of claim 35 also include a second process in communication with said first process through a first protocol, said second process receiving communication transmitted across a network using a second protocol comprising the COPS protocol and having access to said metadata in said first database for translation between said first and said second protocols. "A COPS-PR shim layer 20 executing on the managed node 14a provides this translation function. The shim layer 20 is configured to emulate a COPS PEP by receiving COPS-PR messages from the management station 12 and providing a corresponding sequence of calls to the API (application program interface) of the SNMP agent 18. The shim layer 20 is also configured to receive data extracted from the local MIB 16 by the SNMP agent 18 and to repackage that data into a corresponding COPS-PR messages for sending to the management station 12." (Pgs. 3-4, Para. 0012).

#### Claim 37

One aspect of Appellant's invention is set out in claim 37 as a managed node. "Fig. 2 shows a managed node." (Pg. 2, Para. 0006). "The managed nodes 14a-c can be routers, bridges, hosts, printers, and similar devices." (Pg. 2, Para. 0008).

Inventive features of claim 37 include a first database having metadata that is descriptive of data stored in a second database. "The metadata stored in the auxiliary MIB 22 includes a specification of data from the local MIB 16 that is to be supplied to the management station in response to a COPS-PR "REQ" or "RPT" message and a specification of data from the local MIB 16 that is expected from the management station upon receiving a COPS-PR "DEC" message. The auxiliary MIB 22 thus functions as a dictionary available for reference by the shim layer 20." (Pg. 4, Para. 00014).

Inventive features of claim 37 also include a first process in communication with said second database. "An SNMP agent 18 in communication with the local MIB 16 modifies or retrieves objects in the local MIB 16 in response to received instructions." (Pg. 3, Para. 0010).

Inventive features of claim 37 also include a second process in communication with said first process through a first protocol, said second process receiving communication transmitted across the network using a second protocol comprising the COPS protocol and having access to said metadata in said first database for translation between said first and said second protocol, wherein said second process comprises a network shim layer providing an interface between said first process and said network. "A COPS-PR shim layer 20 executing on the managed node 14a provides this translation function. The shim layer 20 is configured to emulate a COPS PEP by receiving COPS-PR messages from the management station 12 and providing a corresponding sequence of calls to the API (application program interface) of the SNMP agent 18. The shim layer 20 is also configured to receive data extracted from the local MIB 16 by the SNMP agent 18 and to repackage that data into a corresponding COPS-PR messages for sending to the management station 12." (Pgs. 3-4, Para. 0012).

Claim 41

One aspect of Appellant's invention is set out in claim 41 as a managed node. "Fig. 2 shows a managed node." (Pg. 2, Para. 0006). "The managed nodes 14a-c can be routers, bridges, hosts, printers, and similar devices." (Pg. 2, Para. 0008).

Inventive features of claim 41 include a database having metadata descriptive of data stored in an MIB. "The metadata stored in the auxiliary MIB 22 includes a specification of data from the local MIB 16 that is to be supplied to the management station in response to a COPS-PR "REQ" or "RPT" message and a specification of data from the local MIB 16 that is expected from the management station upon receiving a COPS-PR "DEC" message. The auxiliary MIB 22 thus functions as a dictionary available for reference by the shim layer 20." (Pg. 4, Para. 00014).

Inventive features of claim 41 also include an SNMP agent in communication with the MIB. "An SNMP agent 18 in communication with the local MIB 16 modifies or retrieves objects in the local MIB 16 in response to received instructions." (Pg. 3, Para. 0010).

Inventive features of claim 41 also include a process in communication with the SNMP agent through an SNMP protocol, the process receiving communication transmitted across a

network using a COPS-PR protocol and having access to the metadata in the database for translation between the SNMP protocol and the COPS-PR protocol. "A COPS-PR shim layer 20 executing on the managed node 14a provides this translation function. The shim layer 20 is configured to emulate a COPS PEP by receiving COPS-PR messages from the management station 12 and providing a corresponding sequence of calls to the API (application program interface) of the SNMP agent 18. The shim layer 20 is also configured to receive data extracted from the local MIB 16 by the SNMP agent 18 and to repackage that data into a corresponding COPS-PR messages for sending to the management station 12." (Pgs. 3-4, Para. 0012).

**(6) Grounds of Rejection to be Reviewed on Appeal**

Claims 1-3, 5-6, 8-9, 11-13, 15-16, and 18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *Champlin et al.*, U.S. Patent No. 6,519,635 ("*Champlin*") in view of *Ramberg et al.*, U.S. Patent No. 6,857,013 ("*Ramberg*").

Claims 4, 7, 10, 14, 17, and 35-43 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *Champlin* in view of *Ramberg* and in further view of *Pan et al.*, U.S. Patent No. 6,775,701 ("*Pan*").

**(7) Argument**

**Obviousness**

"It is well established that the burden is on the PTO to establish a *prima facie* showing of obviousness, *In re Fritsch*, 972 F.2d. 1260, 23 U.S.P.Q.2d 1780 (C.C.P.A., 1972)."

"It is well established that there must be some logical reason apparent from the evidence or record to justify combination or modification of references. *In re Regal*, 526 F.2d 1399 188, U.S.P.Q.2d 136 (C.C.P.A. 1975). In addition, even if all of the elements of claims are disclosed in various prior art references, the claimed invention taken as a whole cannot be said to be obvious without some reason given in the prior art why one of ordinary skill in the art would have been prompted to combine the teachings of the references to arrive at the claimed invention. *Id.* Even if the cited references show the various elements suggested by the Examiner in order to support a conclusion that it would have been obvious to combine the cited references, the

references must either expressly or impliedly suggest the claimed combination or the Examiner must present a convincing line of reasoning as to why one skilled in the art would have found the claimed invention obvious in light of the teachings of the references. *Ex Parte Clapp*, 227 U.S.P.Q.2d 972, 973 (Board. Pat. App. & Inf. 985)."

"The mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification." *In re Gordon*, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984).

Although the Commissioner suggests that [the structure in the primary prior art reference] could readily be modified to form the [claimed] structure, "[t]he mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification." *In re Laskowski*, 10 U.S.P.Q. 2d 1397, 1398 (Fed. Cir. 1989).

"The claimed invention must be considered as a whole, and the question is whether there is something in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination." *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick*, 221 U.S.P.Q. 481, 488 (Fed. Cir. 1984).

Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. Under Section 103, teachings of references can be combined only if there is some suggestion or incentive to do so. *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984) (emphasis in original, footnotes omitted).

"The critical inquiry is whether 'there is something in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination.'" *Fromson v. Advance Offset Plate, Inc.*, 225 U.S.P.Q. 26, 31 (Fed. Cir. 1985).

**I. Claims 1-3, 5-6, 8-9, 11-13, 15-16, and 18 are patentable over Champlin et al., U.S. Patent No. 6,519,635 (“Champlin”) in view of Ramberg et al., U.S. Patent No. 6,857,013 (“Ramberg”).**

Claims 1, 2, 5, 6, 9, 11, 12, 15, and 16

For the purposes of this appeal only, claims 1, 2, 5, 6, 9, 11, 12, 15, and 16 stand or fall as a group. Claim 1 is representative of this group of claims.

**A. The Prior Art References Fail to Teach all the Claimed Limitations**

As the examiner has conceded, *Champlin* fails to teach the use of second protocols and translation between first and second protocols. [See Office Action mailed on 9/26/2006, page 4; see also Office Action mailed on April 12, 2006, page 3.]

Instead, the examiner points to *Ramberg* to teach the use of second protocols and translation between first and second protocols. However, *Ramberg* also fails to teach translating between first and second protocols. *Ramberg* describes SNMP sub-agents that interact with bar code scanners. Designating the location of a portion of information to view or modify on a device platform has nothing to do with a translation between a first and second protocol.

*Ramberg*'s MIB “essentially tells SNMP what pieces of information it can modify or view on the ADC [bar code scanner] device platform.” (col. 7 lines 32-34). *Ramberg*'s MIB therefore does not provide the SNMP sub-agents with information to translate between a first and second protocol. Accordingly, *Ramberg*, even when combined with *Champlin*, fails to disclose or suggest translating between a first and second protocol.

**B. There Is No Motivation to Combine the References**

The examiner alleges that “a motivation is provided to allow *Champlin*'s system to communicate with devices operated under different protocols as taught by *Ramberg*.” (See Office Action mailed on 9/26/2006, page 2). *Champlin* does not disclose a need to communicate

with devices operated under different protocols. One of ordinary skill in the art would not have recognized that all of the elements in *Champlin* communicate using the SNMP protocol.

Having just learned of a system that uses only a single protocol for communication, a person of ordinary skill in the art would have had no reason to think of translating between two protocols. Indeed, the idea of introducing a second protocol into the *Champlin* system, and having to now translate between two protocols, would have no doubt struck one of ordinary skill in the art as unnecessarily complex. The mere fact that a non-standard protocol for bar code scanners existed would not have suggested to one of ordinary skill in the art to now incorporate that non-standard protocol into the system of *Champlin*.

One of ordinary skill in the art would have known, from *Ramberg*, that there existed certain non-standard protocols associated with bar code scanners. But persons of ordinary skill in the art are not prone to incorporating non-standard protocols that would unnecessarily complicate a system simply because those protocols exist.

Nothing in the cited art would have suggested to one of ordinary skill in the art that adding a bar code scanner would in any way advance or improve the system of *Champlin*. (See Reply to Action of April 12, 2006, page 10). In fact, one of ordinary skill in the art would have simply viewed incorporating an additional non-standard device operating under a different protocol as being a way to unnecessarily complicate the system of *Champlin*.

#### C. Examiner's Combination of the Prior Art References Amounts to Hindsight Analysis

As the Court stated in *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132 (Fed. Cir. 1985), “[i]t is an error to reconstruct the patentee's claimed invention from the prior art by using the patentee's claim as a 'blueprint'. When prior art references require selective combination to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight obtained from the invention itself. It is critical to understand the particular results achieved by the new combination” (emphasis added). Further, in *ADT Corp. v. Lydall, Inc.*, 159 F.3d 534 (Fed. Cir., 1998) the Court stated, “[d]etermination of obviousness can not be based on hindsight combination of components selectively culled from the prior art to fit the parameters of the patented invention.”

The Examiner's proposal to modify *Champlin* to be able to communicate with *Ramberg*'s non-standard protocol in *Ramberg*, without incorporating the bar code scanner itself, amounts to a piecemeal combination of components selectively culled from the prior art. Accordingly, Appellant submits that even if, *arguendo*, the combination of *Champlin* and *Ramberg* teaches the limitations of Appellant's claim 1, such a combination is an impermissible hindsight combination based on Appellant's design as described in claim 1.

Claims 3, 8, 13, 18 and 44-47

For the purposes of this appeal only, claims 3, 8, 13, 18, and 44-47 stand or fall as a group. Claim 3 is representative of this group of claims.

Claim 3 adds the distinct feature that the process having access to metadata in a first database for translation between a first and second protocol comprises "a network shim layer providing an interface between said first process and said network."

A. The Prior Art References Fail to Teach all the Claimed Limitations

The examiner contends that the system in *Champlin* "translates the protocol format from one format into the second format of appropriate SNMP agent 66, which serves the same function as the network shim layer is providing. Col 5 lines 41-51". (See Office Action dated 9/26/2006, page 6).

In fact, the system in *Champlin* translates *between formats* within the same SNMP protocol. In contrast, the shim layer in claim 3 has access to metadata in a first database for translation *between protocols*. Therefore, contrary to the examiner's assertion, the system in *Champlin* serves a function that differs from that of the network shim layer of claim 3.

Further, *Ramberg* does not disclose or suggest "a network shim layer providing an interface between said first process and said network" for translation between a first and second protocol as recited in claim 3. As explained earlier, the SNMP agents of *Ramberg* access an MIB to determine which portions of the bar code scanner device platform to access or modify. The SNMP sub-agents 212 and 211 of *Ramberg* do not interact with a network; instead, they provide an interface between the SNMP master agent and the bar code scanner devices. (See col.

7 lines 10-12). The communication interface 104 of *Ramberg* provides an interface with the network. (See Figure 2). However, the communication interface 104 of *Ramberg* does not interact with the bar code scanner devices 101 and 102 of *Ramberg*, nor does it translate between a first protocol and a second protocol. Therefore, it does not provide an interface between a first process and a network for translation between a first and second protocol as recited in claim 3.

**II. Claims 4, 7, 10, 14, 17, and 35-43 are patentable over Champlin in view of Ramberg and in further view of Pan et al., U.S. Patent No. 6,775,701 ("Pan").**

**Claims 4, 7, 10, 14, 17, 35-43**

For the purposes of this appeal only, claims 4, 7, 10, 14, 17, and 35-43 stand or fall as a group. Claim 35 is representative of this group of claims.

Claim 35 adds the distinct feature that the second process receiving communication transmitted across a network uses "a second protocol comprising the COPS protocol."

The examiner points to *Pan* merely to demonstrate the existence of the COPS-PR protocol. (See Office Action mailed on 9/26/2006, page 8). *Pan* does not describe or suggest the use of second protocols and translation between said first and second protocols.

**A. There Is No Motivation to Combine the References**

There is no motivation to combine the teachings of *Pan* with *Ramberg* and *Champlin*.

The examiner alleges that "[a] person with ordinary skill in the art would have been motivated to make the modification to *Champlin* because COPS-PR is one of the well-known protocols along with SNMP, COPS-RSVP, and CLI as taught by *Pan* (Col 8 lines 55-58), having COPS would allow a query response protocol used to exchange policy data between a server and a set of client, as taught by *Pan* (Col 8 lines 59-61), to be implemented on *Champlin*'s system." (See Office Action mailed on 9/26/2006, page 8).

Once again, the Examiner assumes that simply knowing about another protocol is enough to motivate one of ordinary skill in the art to incorporate that protocol into *Champlin*. However, this is not enough. There must still be some plausible reason to combine the references.

*Champlin* does not describe or suggest a need to “allow a query response protocol used to exchange policy data between a server and a set of clients,” nor does *Champlin* describe or suggest the use of different protocols. One of ordinary skill in the art would have recognized that adding a COPS-PR protocol to *Champlin* would not in any way advance or improve the system of *Champlin* because all of the elements in *Champlin* communicate using SNMP protocol. To one of ordinary skill in the art, such a modification would have only unnecessarily complicated the system described in *Champlin* without satisfying any particular need in the art.

**B. Examiner's Combination of the Prior Art References Amounts to Hindsight Analysis**

As the Court stated in *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132 (Fed. Cir. 1985), “[i]t is an error to reconstruct the patentee's claimed invention from the prior art by using the patentee's claim as a 'blueprint'. When prior art references require selective combination to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight obtained from the invention itself. It is critical to understand the particular results achieved by the new combination” (emphasis added). Further, in *ADT Corp. v. Lydall, Inc.*, 159 F.3d 534 (Fed. Cir., 1998) the Court stated, “[d]etermination of obviousness can not be based on hindsight combination of components selectively culled from the prior art to fit the parameters of the patented invention.”

The Examiner's proposal to add the feature of the COPS-PR protocol in *Pan* amounts to a piecemeal combination of components selectively culled from the prior art. Accordingly, Appellant submits that even if, *arguendo*, the combination of *Champlin*, *Ramberg*, and *Pan* teaches the limitations of Appellant's claim 35, such a combination is an impermissible hindsight combination based on Appellant's design as described in claim 35.

**Conclusion**

Appellant submits, therefore, that Claims 1-18 and 35-47 are allowable over the cited art. Therefore, the Examiner erred in rejecting Appellant's claims and should be reversed.

Respectfully submitted,

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### **Appendix of Claims**

**1.** A managed node comprising:

a first database having metadata that is received from a remote source and that is descriptive of data stored in a second database;

a first process in communication with said second database; and

a second process in communication with said first process through a first protocol, said second process receiving communication transmitted across a network using a second protocol and having access to said metadata in said first database for translation between said first and second protocols.

**2.** The managed node of claim 1, wherein said first process comprises an SNMP agent.

**3.** A managed node comprising:

a first database having metadata descriptive of data stored in a second database;

a first process in communication with said second database; and

a second process in communication with said first process through a first protocol, said second process receiving communication transmitted across a network using a second protocol and having access to said metadata in said first database for translation between said first and second protocols,

wherein said second process comprises a network shim layer providing an interface between said first process and said network.

**4.** The managed node of claim 1, wherein said second protocol for communication

on said network comprises COPS-PR.

5. The managed node of claim 1, wherein said second database comprises a MIB.
6. The managed node of claim 2, wherein said first protocol comprises an application program interface of said SNMP agent.
7. The managed node of claim 2, wherein said second protocol comprises a COPS protocol.
8. The managed node of claim 3, wherein said metadata is obtained from a remote source.
9. A managed network comprising:
  - a management station; and
  - a managed node in communication with said management station using a second protocol, said managed node including
    - a first database having metadata that is received from a remote source and that is descriptive of data stored in a second database;
    - a first process in communication with a second process through a first protocol, said second process being in communication with said second database, said first process receiving communication from said management station through a second protocol and having access to said metadata in said first database for translation between said first protocol and said second protocol.
10. The managed network of claim 9, wherein said second protocol for communication between said managed node and said management station comprises COPS-PR.

11. The managed network of claim 9, wherein an interface for communication between said first and second processes comprises an application program interface communication.

12. The managed network of claim 9, wherein second process comprises an SNMP agent.

13. A managed network comprising:

a management station; and

a managed node in communication with said management station using a second protocol, said managed node including

a first database having metadata that is descriptive of data stored in a second database;

a first process in communication with a second process through a first protocol, said second process being in communication with said second database, said first process receiving communication from said management station through a second protocol and having access to said metadata in said first database for translation between said first protocol and said second protocol,

wherein said first process comprises a network shim layer providing an interface between said first process and a network.

14. The managed network of claim 9, wherein said second protocol for communication between said network shim layer and said management station comprises COPS-PR.

15. The managed network of claim 9, wherein said second database comprises a MIB.

16. The managed network of claim 15, wherein said first protocol comprises an application program interface of said SNMP agent.

17. The managed network of claim 15, wherein said second protocol comprises a COPS protocol.

18. The managed network of claim 13, wherein said metadata is obtained from a remote source.

**19-34. (Canceled)**

35. A managed node comprising:

a first database having metadata that is received from a remote source and that is descriptive of data stored in a second database;

a first process in communication with said second database; and

a second process in communication with said first process through a first protocol, said second process receiving communication transmitted across a network using a second protocol comprising the COPS protocol and having access to said metadata in said first database for translation between said first and said second protocols.

36. The managed node of claim 35, wherein said first process comprises an SNMP agent.

37. A managed node comprising:

a first database having metadata that is descriptive of data stored in a second database;

a first process in communication with said second database; and

a second process in communication with said first process through a first protocol, said second process receiving communication transmitted across the network using a second protocol comprising the COPS protocol and having access to said metadata in said first database for translation between said first and said second protocol,

wherein said second process comprises a network shim layer providing an interface between said first process and said network.

38. The managed node of claim 35, wherein said second database comprises a MIB.
39. The managed node of claim 36, wherein said first protocol comprises an application program interface of said SNMP agent.
40. The managed node of claim 37, wherein said metadata is obtained from a remote source.
41. A managed node comprising:
  - a database having metadata descriptive of data stored in an MIB;
  - an SNMP agent in communication with the MIB; and
  - a process in communication with the SNMP agent through an SNMP protocol, the process receiving communication transmitted across a network using a COPS-PR protocol and having access to the metadata in the database for translation between the SNMP protocol and the COPS-PR protocol.
42. The managed node of claim 41, wherein the process comprises a network shim layer providing an interface between the SNMP agent and the network.
43. The managed node of claim 41, wherein the metadata is obtained from a remote

source.

**44.** The managed node of claim **13**, wherein the network shim layer is adapted to determine when to send a report to the management station.

**45.** The managed node of claim **13**, wherein the network shim layer is adapted to use the metadata in the first database to identify an object in the second database that is to be accessed.

**46.** The managed node of claim **13**, wherein the network shim layer is adapted to receive a first message from the first process.

**47.** The managed node of claim **46**, wherein the network shim layer is further adapted to access the metadata in the first database to formulate a second message to the management station based on the first message.

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### **Evidence Appendix**

None.

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**Related Proceedings Appendix**

None.